

SSB 5492 - H AMD 583

By Representative Cody

ADOPTED 04/19/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 70.41.210 and 1994 sp.s. c 9 s 743 are each amended
4 to read as follows:

5 (1) The chief administrator or executive officer of a hospital
6 shall report to the ((medical quality assurance commission when a
7 physician's clinical privileges are terminated or are restricted based
8 on a determination, in accordance with an institution's bylaws, that a
9 physician has either committed an act or acts which may constitute
10 unprofessional conduct. The officer shall also report if a physician
11 accepts voluntary termination in order to foreclose or terminate actual
12 or possible hospital action to suspend, restrict, or terminate a
13 physician's clinical privileges)) department when the practice of a
14 health care practitioner as defined in subsection (2) of this section
15 is restricted, suspended, limited, or terminated based upon a
16 conviction, determination, or finding by the hospital that the health
17 care practitioner has committed an action defined as unprofessional
18 conduct under RCW 18.130.180. The chief administrator or executive
19 officer shall also report any voluntary restriction or termination of
20 the practice of a health care practitioner as defined in subsection (2)
21 of this section while the practitioner is under investigation or the
22 subject of a proceeding by the hospital regarding unprofessional
23 conduct, or in return for the hospital not conducting such an
24 investigation or proceeding or not taking action. The department will
25 forward the report to the appropriate disciplining authority.

26 (2) The reporting requirements apply to the following health care
27 practitioners: Pharmacists as defined in chapter 18.64 RCW; advanced
28 registered nurse practitioners as defined in chapter 18.79 RCW;
29 dentists as defined in chapter 18.32 RCW; naturopaths as defined in
30 chapter 18.36A RCW; optometrists as defined in chapter 18.53 RCW;

1 osteopathic physicians and surgeons as defined in chapter 18.57 RCW;
2 osteopathic physician assistants as defined in chapter 18.57A RCW;
3 physicians as defined in chapter 18.71 RCW; physician assistants as
4 defined in chapter 18.71A RCW; podiatric physicians and surgeons as
5 defined in chapter 18.22 RCW; and psychologists as defined in chapter
6 18.83 RCW.

7 ~~((Such a))~~ (3) Reports made under subsection (1) of this section
8 shall be made within ~~((sixty))~~ fifteen days of the date ~~((action was~~
9 ~~taken by the hospital's peer review committee or the physician's~~
10 ~~acceptance of voluntary termination or restriction of privileges)):~~

11 (a) A conviction, determination, or finding is made by the hospital
12 that the health care practitioner has committed an action defined as
13 unprofessional conduct under RCW 18.130.180; or (b) the voluntary
14 restriction or termination of the practice of a health care
15 practitioner, including his or her voluntary resignation, while under
16 investigation or the subject of proceedings regarding unprofessional
17 conduct under RCW 18.130.180 is accepted by the hospital.

18 (4) Failure of a hospital to comply with this section is punishable
19 by a civil penalty not to exceed two hundred fifty dollars.

20 (5) A hospital, its chief administrator, or its executive officer
21 who files a report under this section is immune from suit, whether
22 direct or derivative, in any civil action related to the filing or
23 contents of the report, unless the conviction, determination, or
24 finding on which the report and its content are based is proven to not
25 have been made in good faith. The prevailing party in any action
26 brought alleging the conviction, determination, finding, or report was
27 not made in good faith, shall be entitled to recover the costs of
28 litigation, including reasonable attorneys' fees.

29 (6) The department shall forward reports made under subsection (1)
30 of this section to the appropriate disciplining authority designated
31 under Title 18 RCW within fifteen days of the date the report is
32 received by the department. The department shall notify a hospital
33 that has made a report under subsection (1) of this section of the
34 results of the disciplining authority's case disposition decision
35 within fifteen days after the case disposition. Case disposition is
36 the decision whether to issue a statement of charges, take informal
37 action, or close the complaint without action against a practitioner.

1 In its biennial report to the legislature under RCW 18.130.310, the
2 department shall specifically identify the case dispositions of reports
3 made by hospitals under subsection (1) of this section.

4 (7) The department shall not increase hospital license fees to
5 carry out this section before July 1, 2007.

6 **Sec. 2.** RCW 18.130.070 and 1998 c 132 s 8 are each amended to read
7 as follows:

8 (1) The disciplining authority may adopt rules requiring any
9 person, including, but not limited to, licensees, corporations,
10 organizations, health care facilities, impaired practitioner programs,
11 or voluntary substance abuse monitoring programs approved by the
12 disciplining authority and state or local governmental agencies, to
13 report to the disciplining authority any conviction, determination, or
14 finding that a license holder has committed an act which constitutes
15 unprofessional conduct, or to report information to the disciplining
16 authority, an impaired practitioner program, or voluntary substance
17 abuse monitoring program approved by the disciplining authority, which
18 indicates that the license holder may not be able to practice his or
19 her profession with reasonable skill and safety to consumers as a
20 result of a mental or physical condition. If a report has been made by
21 a hospital to the department pursuant to RCW 70.41.210, a report to the
22 disciplining authority is not required. To facilitate meeting the
23 intent of this section, the cooperation of agencies of the federal
24 government is requested by reporting any conviction, determination, or
25 finding that a federal employee or contractor regulated by the
26 ((disciplinatory)) disciplining authorities enumerated in this chapter
27 has committed an act which constituted unprofessional conduct and
28 reporting any information which indicates that a federal employee or
29 contractor regulated by the ((disciplinatory)) disciplining authorities
30 enumerated in this chapter may not be able to practice his or her
31 profession with reasonable skill and safety as a result of a mental or
32 physical condition.

33 (2) If a person fails to furnish a required report, the
34 disciplining authority may petition the superior court of the county in
35 which the person resides or is found, and the court shall issue to the
36 person an order to furnish the required report. A failure to obey the
37 order is a contempt of court as provided in chapter 7.21 RCW.

1 (3) A person is immune from civil liability, whether direct or
2 derivative, for providing information to the disciplining authority
3 pursuant to the rules adopted under subsection (1) of this section.

4 (4) The holder of a license subject to the jurisdiction of this
5 chapter shall report to the disciplining authority any conviction,
6 determination, or finding that the licensee has committed
7 unprofessional conduct or is unable to practice with reasonable skill
8 or safety. Failure to report within thirty days of notice of the
9 conviction, determination, or finding constitutes grounds for
10 disciplinary action."

11 Correct the title.

EFFECT: Specifies that the immunity for hospital reporting does not apply where the conviction, determination, or finding that is the basis of the report was not made in good faith. Allows the party that prevails in an action that alleges a lack of good faith to recover litigation costs, including reasonable attorneys' fees. Makes a technical change to terminology.

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